

IN THE DISTRICT COURT OF UINTAH COUNTY

STATE OF UTAH

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ELMER HUBER and ROY HUBER,

Plaintiffs,

vs.

Civil No. 3067

DEEP CREEK IRRIGATION COMPANY, a corpora-  
tion, OLLIE W. JUSTIC, ORLAND COOK,  
DARVALL COOK and BEN COOK,

Defendants.

MOSEY IRRIGATION COMPANY,

Intervenor.

D E C R E E

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This matter, having come on before the above entitled court for trial commencing August 3, 1954, and all of the parties having appeared in person and by their respective attorneys, and the court having entered Findings of Fact and Conclusions of Law,

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the plaintiffs are the owners of 277/377ths of Certificate of Appropriation No. 1477, <sup>(43-702)</sup> originally issued by the State Engineer of the State of Utah to Moroni Gerber for the irrigation of 377 acres of land; that the priority date of said water right is January 10, 1908, and said certificate covers the right to divert and use from the waters of Deep Creek 6.28 c.f.s. of water from April 1st to November 1st of each year for use for irrigation purposes; that said right of the plaintiffs is prior to any of the rights of any of the defendants, and the prior right to the use of 4.61 c.f.s. of 6.28 c.f.s. is hereby quieted in the plaintiffs, and the defendants, and each of them, are hereby enjoined from diverting or using any water from the waters of Deep Creek at any time between April 1st and November 1st of any year when the flow of water measured at plaintiffs' point of diversion is 4.61 c.f.s. or less. If during said period of time the flow of water in Deep Creek as allowed to flow free and unobstructed through the lands

of all of the defendants will not reach plaintiffs' point of diversion in a quantity sufficient to reach any of the plaintiffs' lands, the defendants may divert and use the water in accordance with their respective rights. Defendants may also use water from Deep Creek in accordance with their respective rights during such time as the flow of water in Deep Creek measured at the plaintiffs' point of diversion is 4.61 c.f.s. or more, so long as the diversions by them do not deplete the flow to such an extent that there is not 4.61 c.f.s. of water at plaintiffs' point of diversion.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all orders made herein, except the order for costs, should be interlocutory in nature, with the court reserving jurisdiction for the purpose of carrying into effect its order for a general adjudication.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the State Engineer of the State of Utah should proceed pursuant to the provisions of Chapter 4, Title 73, U.C.A., 1953, to make a general adjudication of the waters of Deep Creek.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiffs should have their costs incurred herein.

Dated this 12 day of September, 1955.

Recorded in Judgment Book

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Charles T. Pope  
Clerk.

By E. H. Brown  
Deputy Clerk.

Stanley J. Ford  
Judge

Copy of the foregoing decree and copy of pages 4, 5, 6, 7 and 8 of the findings and conclusions mailed to defendants' attorney, Arthur H. Nielsen, Newhouse Building, Salt Lake City, Utah, this 8 day of September, 1955.

Marlene Lundell

**FILED**  
DISTRICT COURT  
UINTAH COUNTY, UTAH

SEP 15 1955

Char. T. Pope Clerk